

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE BED BATH & BEYOND INC.
SECTION 16(b) LITIGATION

Case No. 1:22-cv-09327-PGG

**DECLARATION OF CLIFFORD THAU IN SUPPORT OF RC VENTURES LLC AND
RYAN COHEN’S OMNIBUS MOTION TO DISMISS THE COMPLAINTS**

CLIFFORD THAU declares, pursuant to 28 U.S.C. § 1746:

I am a member of the law firm of Vinson & Elkins LLP (“*Vinson & Elkins*”), attorneys for Defendants RC Ventures LLC (“*RCV*”) and Ryan Cohen (collectively, the “*Cohen Defendants*”) and make this declaration in support of the Cohen Defendants omnibus motion to dismiss the complaints of Todd Augenbaum and Judith Cohen filed in this consolidated action. The purpose of this declaration is to place before the Court the following documents concerning said motion, the significance of which is explained in the accompanying memorandum of law.

1. Attached hereto as Exhibit 1 is a true and correct copy of the Beneficial Ownership Report on Schedule 13D filed by RCV with the Securities and Exchange Commission (“*SEC*”) on March 7, 2022, and an accompanying letter to the Bed Bath & Beyond Inc. (“*BBBY*”) Board of Directors (the “*Board*”). The Schedule 13D filing is readily available on the SEC’s website at <https://www.sec.gov/Archives/edgar/data/1822844/000119380522000426/0001193805-22-000426-index.html>.

2. Attached hereto as Exhibit 2 is a true and correct copy of the March 24, 2022, cooperation agreement between RCV and BBBY Board, which BBBY filed with the SEC as an attachment to a Current Report on Form 8-K on March 25, 2022. The Form 8-K filing is readily available on the SEC’s website at

<https://www.sec.gov/Archives/edgar/data/886158/000114036122011120/0001140361-22-011120-index.html>.

3. Attached hereto as Exhibit 3 is a true and correct copy of the press release issued by BBY, which BBY filed with the SEC as an attachment to a Current Report on Form 8-K on November 2, 2021. The Form 8-K filing is readily available on the SEC's website at <https://www.sec.gov/Archives/edgar/data/886158/000114036121036281/0001140361-21-036281-index.html>.

4. Attached hereto as Exhibit 4 is a true and correct copy of relevant excerpts from the Annual Report on Form 10-K that BBY filed with the SEC on April 21, 2022. The Form 10-K filing is readily available on the SEC's website at <https://www.sec.gov/Archives/edgar/data/886158/000088615822000047/0000886158-22-000047-index.html>.

5. Attached hereto as Exhibit 5 is a true and correct copy of relevant excerpts from the press release which BBY filed with the SEC as an attachment to a Current Report on Form 8-K on April 13, 2022. The Form 8-K filing is readily available on the SEC's website at <https://www.sec.gov/Archives/edgar/data/886158/000088615822000042/0000886158-22-000042-index.html>.

6. Attached hereto as Exhibit 6 is a true and correct copy of the Amended Beneficial Ownership Report on Schedule 13D/A filed by RCV with the SEC on August 18, 2022. The Schedule 13D/A filing is readily available on the SEC's website at <https://www.sec.gov/Archives/edgar/data/1822844/000092189522002496/0000921895-22-002496-index.html>.

7. Attached hereto as Exhibit 7 is a true and correct copy of the BBBY Board's response to Plaintiff Augenbaum's litigation demand, issued on October 21, 2022.

8. Attached hereto as Exhibit 8 is a true and correct copy of the relevant excerpts from the Quarterly Report on Form 10-Q that BBBY filed with the SEC on January 6, 2022. The Form 10-Q filing is readily available on the SEC's website at <https://www.sec.gov/Archives/edgar/data/886158/000088615822000006/0000886158-22-000006-index.html>.

9. Attached hereto as Exhibit 9 is a true and correct copy of a graph originally produced on Nasdaq.com, showing the daily trading prices of BBBY's Common Stock for the range of mid-September, 2021 to the end of March, 2022. This graph is readily available on Nasdaq.com at <https://www.nasdaq.com/market-activity/stocks/bbby/advanced-charting>.

10. Attached hereto as Exhibit 10 is a true and correct copy of relevant excerpts from the Definitive Proxy on Schedule DEF 14A that BBBY filed with the SEC on June 1, 2022. The Schedule DEF 14A filing is readily available on the SEC's website at <https://www.sec.gov/Archives/edgar/data/886158/000114036122021506/0001140361-22-021506-index.html>.

Dated: March 3, 2023

/s/ Clifford Thau
Clifford Thau